



Sen. William R. Haine

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09900HB3983sam002

LRB099 11142 AWJ 35551 a

1 AMENDMENT TO HOUSE BILL 3983

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3983, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Counties Code is amended by changing  
6 Sections 5-1097.5 and 5-1097.7 as follows:

7 (55 ILCS 5/5-1097.5)

8 Sec. 5-1097.5. Adult entertainment facility.

9 (a) It is the intent of the General Assembly through this  
10 Section to control the negative secondary effects associated  
11 with the operation of adult entertainment facilities,  
12 including, but not limited to, negative impacts on surrounding  
13 properties, personal and property crimes, and vice activities,  
14 and to restrict the proximity of adult entertainment facilities  
15 near places where children and families are actively present,  
16 so as to promote the health, safety, and welfare of the

1 citizens of Illinois.

2 This Section is not intended to deny access by adults to  
3 any expression that may be protected by the First Amendment of  
4 the United States Constitution or by the Illinois Constitution.

5 (b) It is prohibited within an unincorporated area of a  
6 county to locate an adult entertainment facility within 3,000  
7 feet of the property boundaries of any school, day care center,  
8 cemetery, public park, ~~forest preserve~~, public housing, place  
9 of religious worship, or residence, except that in a county  
10 with a population of more than 800,000 and less than 2,000,000  
11 inhabitants, it is prohibited to locate, construct, or operate  
12 a new adult entertainment facility within one mile of the  
13 property boundaries of any school, day care center, cemetery,  
14 public park, ~~forest preserve~~, public housing, or place of  
15 religious worship located anywhere within that county.  
16 Notwithstanding any other requirements of this Section, it is  
17 also prohibited to locate, construct, or operate a new adult  
18 entertainment facility within one mile of the property  
19 boundaries of any school, day care center, cemetery, public  
20 park, ~~forest preserve~~, public housing, or place of religious  
21 worship located in that area of Cook County outside of the City  
22 of Chicago. The provisions requiring a one-mile separation  
23 shall not be enforced if enforcement would fail to allow adult  
24 entertainment facilities reasonable alternative avenues of  
25 communication.

26 (c) For the purposes of this Section, "adult entertainment

1 facility" means (i) a movie theater, lounge, nightclub, bar,  
2 juice bar, or similar commercial establishment that regularly  
3 features a striptease club or pornographic movie theatre whose  
4 business is the commercial sale, dissemination, or  
5 distribution of sexually explicit material, shows, or other  
6 exhibitions characterized by an emphasis on the display of  
7 specified anatomical areas or specified sexual activities, or  
8 (ii) a an adult bookstore or adult video store whose primary  
9 business is the commercial sale, dissemination, or  
10 distribution of ~~sexually explicit~~ material, shows, or other  
11 exhibitions characterized by an emphasis on the display of  
12 specified anatomical areas, specified sexual activities, or  
13 devices, other than devices designed to prevent pregnancy or  
14 sexually transmitted diseases, that are designed for use during  
15 specified sexual activities. "Unincorporated area of a county"  
16 means any area not within the boundaries of a municipality and  
17 "specified anatomical areas" and "specified sexual activities"  
18 shall have the meanings given to those terms in Section  
19 5-1097.7 of this Code.

20 (d) The State's Attorney of the county where the adult  
21 entertainment facility is located or the Attorney General may  
22 institute a civil action for an injunction to restrain  
23 violations of this Section. Those persons and entities  
24 authorized to bring an action to enjoin a zoning violation may  
25 bring an action to enjoin a violation of this Section. In any  
26 enforcement ~~that~~ proceeding, the court shall determine whether

1 a violation has been committed and shall enter such orders as  
2 it considers necessary to remove the effect of any violation  
3 and to prevent the violation from continuing or from being  
4 renewed in the future.

5 (e) A home rule unit may not enact an ordinance or rule, or  
6 otherwise allow an adult entertainment facility to operate (i)  
7 less than 250 feet from the home rule unit's boundary, and (ii)  
8 within 3,000 feet of the property boundaries of any school, day  
9 care center, cemetery, public park, public housing, place of  
10 religious worship, or residence. This Section is a limitation  
11 under subsection (i) of Section 6 of Article VII of the  
12 Illinois Constitution on the concurrent exercise by home rule  
13 units of powers and functions exercised by the State.

14 (f) The provisions of this Section are severable under  
15 Section 1.31 of the Statute on Statutes.

16 (Source: P.A. 94-496, eff. 1-1-06; 95-214, eff. 8-16-07.)

17 (55 ILCS 5/5-1097.7)

18 Sec. 5-1097.7. Local ordinances to regulate adult  
19 entertainment facilities and obscenity.

20 (a) Definitions. In this Act:

21 "Specified anatomical area" means human genitals or pubic  
22 region, buttocks, anus, or the female breast below a point  
23 immediately above the top the areola that is less than  
24 completely or opaquely covered, or human male genitals in a  
25 discernibly turgid state even if completely or opaquely

1 covered.

2 "Specified sexual activities" means (i) human genitals in a  
3 state of sexual stimulation or excitement; (ii) acts of human  
4 masturbation, sexual intercourse, fellatio, or sodomy; (iii)  
5 fondling, kissing, or erotic touching of specified anatomical  
6 areas; (iv) flagellation or torture in the context of a sexual  
7 relationship; (v) masochism, erotic or sexually oriented  
8 torture, beating, or the infliction of pain; (vi) erotic  
9 touching, fondling, or other such contact with an animal by a  
10 human being; or (vii) human excretion, urination,  
11 menstruation, or vaginal or anal irrigation as part of or in  
12 connection with any of the activities set forth in items (i)  
13 through (vi).

14 (b) Ordinance to regulate adult entertainment facilities.  
15 A county may adopt by ordinance reasonable regulations  
16 concerning the operation of any business: (i) defined as an  
17 adult entertainment facility in Section 5-1097.5 of this Act or  
18 (ii) that offers or provides activities by employees, agents,  
19 or contractors of the business that involve exposure of  
20 specified anatomical areas or performance of specified sexual  
21 activities in view of any patron, client, or customer of the  
22 business. A county ordinance may also prohibit the sale,  
23 dissemination, display, exhibition, or distribution of obscene  
24 materials or conduct.

25 (c) A county adopting an ordinance to regulate adult  
26 entertainment facilities may authorize the State's Attorney to

1 institute a civil action to restrain violations of that  
2 ordinance. In that proceeding, the court shall enter such  
3 orders as it considers necessary to abate the violation and to  
4 prevent the violation from continuing or from being renewed in  
5 the future. In addition to any injunctive relief granted by the  
6 court, an ordinance may further authorize the court to assess  
7 fines of up to \$1,000 per day for each violation of the  
8 ordinance, with each day in violation constituting a new and  
9 separate offense.

10 (d) A home rule unit may not enact an ordinance, rule, or  
11 otherwise allow an adult entertainment facility to operate in a  
12 manner inconsistent with this Section or subsection (e) of  
13 Section 5-1097.5 of this Code. This Section is a limitation  
14 under subsection (i) of Section 6 of Article VII of the  
15 Illinois Constitution on the concurrent exercise by home rule  
16 units of powers and functions exercised by the State.

17 (e) The provisions of this Section are severable under  
18 Section 1.31 of the Statute on Statutes.

19 (Source: P.A. 94-496, eff. 1-1-06.)

20 Section 10. The Illinois Municipal Code is amended by  
21 changing Section 11-5-1.5 as follows:

22 (65 ILCS 5/11-5-1.5)

23 Sec. 11-5-1.5. Adult entertainment facility.

24 (a) It is the intent of the General Assembly through this

1 Section to control the negative secondary effects associated  
2 with the operation of adult entertainment facilities,  
3 including, but not limited to, negative impacts on surrounding  
4 properties, personal and property crimes, and vice activities,  
5 and to restrict the proximity of adult entertainment facilities  
6 near places where children and families are actively present,  
7 so as to promote the health, safety, and welfare of the  
8 citizens of Illinois.

9 This Section is not intended to deny access by adults to  
10 any expression that may be protected by the First Amendment of  
11 the United States Constitution or by the Illinois Constitution.

12 (b) It is prohibited within a municipality to locate an  
13 adult entertainment facility within 1,000 feet of the property  
14 boundaries of any school, day care center, cemetery, public  
15 park, ~~forest preserve,~~ public housing, and place of religious  
16 worship, except that in a county with a population of more than  
17 800,000 and less than 2,000,000 inhabitants, it is prohibited  
18 to locate, construct, or operate a new adult entertainment  
19 facility within one mile of the property boundaries of any  
20 school, day care center, cemetery, public park, ~~forest~~  
21 ~~preserve,~~ public housing, or place of religious worship located  
22 anywhere within that county. Notwithstanding any other  
23 requirements of this Section, it is also prohibited to locate,  
24 construct, or operate a new adult entertainment facility within  
25 one mile of the property boundaries of any school, day care  
26 center, cemetery, public park, ~~forest preserve,~~ public

1 housing, or place of religious worship located in that area of  
2 Cook County outside of the City of Chicago. These provisions  
3 requiring a one-mile separation shall not be enforced if  
4 enforcement would fail to allow adult entertainment facilities  
5 reasonable alternative avenues of communication.

6 (c) For the purposes of this Section, "adult entertainment  
7 facility" means (i) a movie theater, lounge, nightclub, bar,  
8 juice bar, or similar commercial establishment that regularly  
9 features ~~a striptease club or pornographic movie theatre whose~~  
10 ~~business is the commercial sale, dissemination, or~~  
11 ~~distribution of sexually explicit material, shows, or other~~  
12 exhibitions characterized by an emphasis on the display of  
13 specified anatomical areas or specified sexual activities, or  
14 (ii) a store whose primary business is the commercial sale,  
15 dissemination, or distribution of materials, shows or other  
16 exhibitions characterized by an emphasis on the display of  
17 specified anatomical areas or specified sexual activities, or  
18 devices, other than devices designed to prevent pregnancy or  
19 sexually transmitted diseases, that are designed for use during  
20 specified sexual activities. As used in this subsection (c),  
21 "specified anatomical areas" and "specified sexual activities"  
22 shall have the meanings given to those terms in Section  
23 5-1097.7 of the Counties Code ~~an adult bookstore or adult video~~  
24 ~~store in which 25% or more of its stock-in-trade, books,~~  
25 ~~magazines, and films for sale, exhibition, or viewing~~  
26 ~~on premises are sexually explicit material.~~

1       (d) The State's Attorney of the county where the adult  
2 entertainment facility is located or the Attorney General may  
3 institute a civil action for an injunction to restrain  
4 violations of this Section. Those persons and entities  
5 authorized to bring an action under Section 11-13-15 of this  
6 Code to enjoin a zoning violation may bring an action to enjoin  
7 a violation of this Section, and may obtain the remedies set  
8 forth in Section 11-13-15 of this Code. In any enforcement  
9 proceeding, the court shall determine whether a violation has  
10 been committed and shall enter such orders as it considers  
11 necessary to remove the effect of any violation and to prevent  
12 the violation from continuing or from being renewed in the  
13 future.

14       (e) A home rule unit may not enact an ordinance or rule, or  
15 otherwise allow an adult entertainment facility to operate (i)  
16 less than 250 feet from the home rule unit's boundary, and (ii)  
17 within 3,000 feet of the property boundaries of any school, day  
18 care center, cemetery, public park, public housing, place of  
19 religious worship, or residence. This Section is a limitation  
20 under subsection (i) of Section 6 of Article VII of the  
21 Illinois Constitution on the concurrent exercise by home rule  
22 units of powers and functions exercised by the State.

23       (f) The provisions of this Section are severable under  
24 Section 1.31 of the Statute on Statutes.

25       (Source: P.A. 95-47, eff. 1-1-08; 95-214, eff. 8-16-07; 95-876,  
26 eff. 8-21-08.)

1           Section 99. Effective date. This Act takes effect upon  
2    becoming law.".